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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,975	12/06/2004	Melquisedec Francisquini	288/9-2014	6867

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EXAMINER

KUHN, MART K

ART UNIT	PAPER NUMBER
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3637

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05/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/516,975	FRANCISQUINI, MELQUISEDEC	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mart K. Kuhn	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19-36 is/are pending in the application.
- 4a) Of the above claim(s) 29-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>06 December 2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of species A, shown in Figure 16A, in the reply filed on 10 April 2007 is acknowledged.
2. Claims 29–36 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10 April 2007.

### *Priority*

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Drawings*

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the perpendicular rim provided without holes and openings, as in claim 22, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

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be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

5. The claims are objected to because they include reference characters which are not enclosed within parentheses, as in claim 25.

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

***Claim Rejections—35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claim 22 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, there is no support in the specification or drawings for the rim being "provided without rows of variable holes and openings" as claimed.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 19–28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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10. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. In this examination, each claim is analyzed as best understood.

11. The scope of claim 19 is indefinite. It claims "[a]n improved metallic profile" and indicates an intended use for the profile, but it is unclear whether the "cabinets, enclosures, boxes or panel boards" are being positively claimed, and whether Applicant regards a cabinet and not just an improved profile as his invention; in addition, there is no transitional phrase or other indication of where the preamble ends and the claim body begins. In light of the claims to an "improved metallic profile"; the format of now-cancelled claim 1; and Applicant's admission, as under the "STATE OF THE ART" heading in the specification, that cabinets made of thin metallic sheets supported by metallic profiles are well known; the claims are considered as Jepson-style claims (see MPEP § 2129(III)), where the cabinet structure recited in lines 1–7 is admitted as prior art.

12. Claim 19 recites the limitation "the vertex" in lines 14 and 17. There is insufficient antecedent basis for this limitation in the claim, as multiple vertices are previously recited.

13. Claim 20 recites the limitation "the adjacent walls ... which are located outside the cabinet" in lines 1–2. There is insufficient antecedent basis for this limitation in the claim, as there are multiple sets of "adjacent walls" previously recited, none of which is disclosed as outside the cabinet.

14. Claim 21 recites the limitation "the adjacent walls ... which are located inside the cabinet" in lines 1–2. There is insufficient antecedent basis for this limitation in the claim, as there are multiple sets of "adjacent walls" previously recited, all of which are inside the cabinet.

15. Claim 26 recites the limitation "the ends" in line 3. There is insufficient antecedent basis for this limitation in the claim.

16. Claim 27 recites the limitation "the two rims" in line 7. There is insufficient antecedent basis for this limitation in the claim.

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17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 19–28, as they are best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmussen, US patent 6,428,127, in view of Pochet, US patent 6,231,142. Rasmussen discloses a metallic profile (1), used to form a structure (Fig. 1) supporting thin metallic closures (4) and doors (5) of a cabinet; the metallic profile having a tubular central core with a substantially square cross-section (bounded by walls 9, 13); a vertex (corner of walls 9) facing the inside of the cabinet, and an opposite vertex (corner of walls 13) facing the outside of the cabinet; two additional vertices formed by the joining of the walls forming the first two vertices; and double walls forming opposite rims with short ends (11) having grooves (14) therein. Rasmussen does not teach a wall with a projection forming a perpendicular rim. Pochet teaches a metallic profile (7) used in the assembly of a cabinet (1) with thin metallic closures (3); the metallic profile having a tubular center core; a vertex (43) facing the inside of the cabinet, and an opposite vertex (38) facing the outside of the cabinet; additional vertices formed by the joining of the walls forming the first two vertices; double walls (21, 11) forming opposite rims; and a projection forming a perpendicular rim (12) perpendicularly oriented from the wall of the outside vertex, allowing cover elements to be fastened to the profile without penetrating the wall of the profile towards the interior of the cabinet (see abstract). It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the metallic profile of Rasmussen by including a projection forming a perpendicular rim, as taught by Pochet, for the purpose of enabling cover elements to be attached to the profile without penetrating the exterior-facing walls of the profile.

Regarding claim 20, Rasmussen does not explicitly teach exterior-facing walls without holes therein. Pochet teaches exterior-facing walls (29) without holes therein, sealing the inside of the profile. It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to

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modify the profile of Rasmussen, already modified as above, by providing exterior-facing walls without holes, as taught by Pochet, for the purpose of sealing the inside of the profile.

Regarding claim 21, Rasmussen teaches interior-facing walls with rows of openings (17) therein.

Regarding claim 22, Rasmussen and Pochet do not teach a perpendicular rim provided without holes, but Rasmussen teaches strips (12) and hinges (3) that can be mounted to profiles without requiring holes. It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the profile of Rasmussen, already modified as above, by attaching surface panels with strips and hinges not requiring holes in the perpendicular rim, as taught by Rasmussen, for the purpose of strengthening and sealing the profile.

Regarding claim 23, Rasmussen teaches a symmetric structure (Fig. 1) formed by the union of various profiles (1), with rims facing the outside.

Regarding claim 24, Rasmussen teaches folded ends (11) forming rims (14) for gaskets (12, 20).

Regarding claim 25, Rasmussen teaches closures (4, 5) sealed with gaskets (12, 20) applied to folded ends (11), but does not teach a perpendicular rim with fixing points for screws. Pochet teaches a perpendicular rim (12) with fixing points (14) for screws (49) for closures. It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the profile of Rasmussen, already modified as above, by including fixing points in the perpendicular rim, as taught by Pochet, for the purpose of allowing closures to be screwed thereto.

Regarding claim 26, Rasmussen teaches folded ends (11) with flat props (10) for receiving sealing cords (12, 20) fixed to closures (4, 5).

Regarding claim 27, Rasmussen does not teach two structures joined side-by-side. Pochet teaches two structures joined side-by-side (Fig. 7), with a seal (as in 50, see col. 8, lines 4–5) therebetween, pressure provided on the seal by an accessory (50), and a rod (48) fixed with screws (49) interconnecting the perpendicular rims. It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the structure of Rasmussen, already modified as above, by joining two structures side-by-side with a seal, an accessory, and a rod, as taught by Pochet, for the

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purpose of providing a combined structure with a larger interior volume without sacrificing the sealing of the profiles.

Regarding claim 28, Rasmussen does not teach a perpendicular rim formed at a vertex, coplanar with one wall and perpendicular to another. Pochet teaches a perpendicular rim formed at a vertex of the profile, coplanar with one adjacent wall and perpendicular to the other. It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the profile of Rasmussen, already modified as above, by positioning the perpendicular rim at a vertex of the profile, as taught by Pochet, for the purpose of simplifying the construction of the profile.

### ***Conclusion***

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and is cited in form PTO-892 enclosed herewith.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mart K. Kuhn whose telephone number is (571) 272-8926. The examiner can normally be reached on M–F, 8:30am–5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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MKK MKK  
21. May 2007

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PRIMARY EXAMINER  
*Art 3637*